

1 Mitchell F. Boomer (State Bar No. 121441)
2 Janine R. Hudson (State Bar No. 206671)
JACKSON LEWIS LLP
199 Fremont Street, 10th Floor
3 San Francisco, California 94105
Telephone: (415) 394-9400
4 Facsimile: (415) 394-9401

5 Attorneys for Defendant
PFIZER, INC.

6

7

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

11 || RANDALL J. SLOAN, an individual.

12 Plaintiff,

13 || VS.

14 PFIZER, INC., a Delaware corporation; and
DOES 1 through 40, inclusive.

16 || Defendants

| Case No. CV-08-1849 SBA

**[PROPOSED] ORDER GRANTING
DEFENDANT PFIZER, INC.'S MOTION
TO TRANSFER VENUE
[28 U.S.C. § 1404(a)]**

Date: July 29, 2008

Date: July 23, 1968
Time: 1:00 p.m.

Time: 1:00 p.m.
Ctrm: 3, 3rd Floor

DJ: Hon. Saundra B. Armstrong

Case Removed to Federal Court: 4/7/2008

18 On July 29, 2008 at 1:00 p.m., in Courtroom 3 of the above-captioned court, the
19 Honorable Saundra B. Armstrong, judge presiding, heard Defendant Pfizer, Inc.'s ("Pfizer")
20 Motion to Transfer Venue. Pfizer appeared by and through its counsel Mitchell F. Boomer of
21 Jackson Lewis LLP. Plaintiff Randall J. Sloan ("Plaintiff") appeared by and through his counsel
22 Daniel Iannitelli of Fotouhi, Epps, Hillger, Gilroy LLP. After considering the moving and
23 opposing papers, and the arguments of counsel, the Court rules as follows:

Under 28 U.S.C. § 1404(a), a district court has discretion to adjudicate motions for transfer according to an ‘individualized, case-by-case consideration of convenience and fairness.’” *Jones v. GNC Franchising, Inc.*, 211 F.3d 495, 498-499 (9th Cir. 2000) (citing *Stewart Org., Inc. v. Ricoh Corp.*, 487 U.S. 22, 29, 108 S. Ct. 2239 (1988)). Section 1404(a) further provides that “for the convenience of the parties and witnesses, in the interests of justice, a district court may

1 transfer any civil action to any other district or division where the action might have been
 2 brought." 28 U.S.C. § 1404(a).

3 In determining whether transfer is appropriate, several public and private factors should be
 4 considered: (1) convenience of the parties; (2) conveniences of the witnesses; (3) ease of access to
 5 evidence; (4) familiarity of each forum with the applicable law; (5) local interest in the
 6 controversy; (6) and the relative court congestion and time of trial in each forum. See *Biswas v.*
 7 *HR Value Group, LLC*, 2002 U.S. Dist. LEXIS 19164 (N.D. Cal. Oct. 3, 2002) citing *Decker*
 8 *Coal Co. v. Commonwealth Edison*, 805 F.2d 834, 843 (9th Cir. 1983).

9 Here, transferring this matter to the Southern District of New York is appropriate because
 10 the court has personal jurisdiction over Defendant Pfizer as the company's principal place of
 11 business is in New York, New York; virtually all of the operative acts occurred in New York; the
 12 majority of witnesses are located in the New York metropolitan area, including current and
 13 former Pfizer employees and the majority of Plaintiff's health care providers who are likely to
 14 provide key testimony regarding Plaintiff's employment, job responsibilities, personnel
 15 complaints, accommodation requests, and medical condition; and nearly all relevant evidence,
 16 such as Plaintiff's employment records and a significant portion of his medical information, is
 17 maintained and located in New York.

18 Plaintiff has not provided any competent evidence to refute the fact that the locus of
 19 operative facts occurred in New York, and that the majority of witnesses and evidence are located
 20 in New York. Plaintiff's contention that transferring this matter will create an undue hardship
 21 due to his medical and financial conditions is not supported by admissible evidence. Even
 22 assuming Plaintiff provided sufficient evidence of his conditions, these considerations alone do
 23 not outweigh the significance of the aforementioned factors in considering the instant motion.

24 For the foregoing reasons, IT IS HEREBY ORDERED that, pursuant to 28 U.S.C.
 25 §1404(a), this matter shall be transferred to the United States District Court for the Southern
 26 District of New York located in New York, New York.

27 ///

28 ///

1 IT IS FURTHER ORDERED _____
2 _____
3 _____
4 _____.
5
6 Dated: _____, 2008 _____
7 Saundra B. Armstrong
United States District Judge
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28